

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RICHARD L. ALLEY,  
Petitioner,

v.

TOM L. CAREY,  
Respondent.

No. CIV-S-04-1934 MCE/PAN P

**ORDER**

October 17, 2005, the court dismissed this action upon the ground petitioner's default of a state procedure bars federal review of the petition and the clerk of the court duly entered judgment. Petitioner seeks relief from judgment.

Pursuant to Fed. R. Civ. P. 60(b):

On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);

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1 (3) fraud (whether heretofore denominated intrinsic or  
2 extrinsic), misrepresentation, or other misconduct of an  
3 adverse party; (4) the judgment is void; (5) the judgment  
4 has been satisfied, released or discharged, or a prior  
5 judgment upon which it is based has been reversed or  
6 otherwise vacated, or it is no longer equitable that the  
7 judgment should have prospective application; or (6) any  
8 other reason justifying relief from the operation of the  
9 judgment.


10 Petitioner does not demonstrate he is entitled to relief  
11 from judgment.

12 Accordingly, petitioner's October 25, 2005, motion is  
13 denied.

14 IT IS SO ORDERED.

15 DATE: November 2, 2005

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MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE